



City of La Crosse, Wisconsin

City Hall
400 La Crosse Street
La Crosse, WI 54601

Meeting Minutes - Final

Board of Zoning Appeals

Wednesday, April 17, 2019

7:00 PM

3rd Floor Conference Room

Call to Order, Roll Call

Vice Chair Farmer brought the meeting to order, explained the meeting procedure, and called the roll.

Present: 5 - Douglas Farmer, James Cherf, Charles Clemence, Carol Haefs, Lu Seloover

Excused: 2 - Philip Nohr, Anastasia Gentry

Variance Appeals:

[2619](#)

An appeal regarding the requirement that all development, building construction, and land disturbances be set back at least 50 feet from all wetlands depicted on the Wetland Inventory Map at 3119 State Road 16, La Crosse, Wisconsin.

Matthew Diehl, representing Fire Prevention & Building Safety, 400 La Crosse Street, is sworn in to speak. Diehl states the owner has applied for a permit to construct a new restaurant. Per Municipal Code Section 109-33(a)(4), no land disturbing activities can occur within 50 feet of any wetlands. For this project to proceed as proposed the Board would have to grant a variance to allow land disturbing activities with 50 feet of a wetland.

Diehl shows an aerial view of the property and states it is a vacant lot as of now. He then he shows a plan for the building and parking lot and points out the wetland and the dashed line that passes through the areas on the lot; the line represents the 50 foot perimeter. He says that the parking lot would be within the 50 feet of the wetland. Clemence asks if there are any floodplain issues and Diehl responds that it is just the wetlands. He adds that there are some floodplain on the property, but those things have been addressed; they are not building in the floodplain, it is just the distance from the wetlands. Farmer asks if the 50 foot rule is from the DNR; Diehl says it is a City rule. Farmer asks why there is a letter from the DNR in the packet. Diehl responds that they wrote because there have been lands delineated as wetlands; the DNR has different requirements. Farmer asks if the letter is just saying that the map is accurate and Diehl says as far as he knows that is correct. Clemence asks if the DNR has a setback requirement and Diehl says he believes they do, but he doesn't know exactly what it is, but the City has the 50 foot setback. Clemence asks if the DNR or the City designates the wetland and Diehl responds that the DNR designates it. Farmer says their wetland setback must not be greater than 50 feet or they may be here objecting. Diehl says he believes they have checked this and the Board can confirm that with the owner's representative.

Speaking in favor:

Gary Woolever from Vierbicher Associates, 400 Viking Drive, Reedsburg, Wisconsin, is sworn in to speak. Woolever says he will give some background on the site. He says it is a constricting site; on the north there's a high-powered electric line easement and next to that is a high pressure gas main owned by Northern Natural Gas. On the side of the building is city storm sewer that is crossing the site. Woolever says it is a challenging site to fit everything into. Woolever addresses the wetland questions and says when they first look at a site they pull up the Wisconsin DNR's water surface viewer which has wetland indicator soils on it. When the parcel they are looking at has those indicator soils, it triggers them to go out and physically do a wetland delineation. Woolever says the DNR will not approve the storm water or erosion control permits until the land has been looked at and determined that either there are no wetlands or that the wetlands have been delineated.

Woolever says the letter that the Board was looking at was the DNR's concurrence with what they have delineated. The one on the parcel is only 1,300 square feet or about 0.03 acres. Farmer asks if that is the one on the left and Woolever says he is correct. Farmer asks what the width is and Woolever responds that the easement is about 30 feet so it is roughly 40 feet by 40 feet. Woolever says the other wetland is in the road ditch for the on-off ramp for the south-bound land on Highway 16. Farmer asks if the road ramp created the wetland; Woolever says he thinks it was created when the construction took place. Farmer says without the road ramp it would be created somewhere else potentially. Farmer asks if the left wetland is wet 12 months per year and Woolever says he doesn't believe it is; most people would probably not be able to tell it was a wetland.

Woolever says he doesn't know when it was originally filled; there are several feet of fill on the site and it appears that this is a depression that probably was put in when the fill was put there and it created a wetland. It is not high quality wetland. Before the project can begin is they have to submit a WRAPP permit to the DNR, which they have so they are in compliance as far as the DNR is concerned. They are not filling in anything in the wetland. Farmer asks what kind of permit that is and Woolever responds that it is for erosion control and storm water. Farmer asks what it allows them to do and Woolever says it is for the grading on the site. Clemence asks if that is to keep runoff out of the wetland. Woolever responds that the DNR requires it if you are disturbing more than an acre of land; it is a combination of storm water and erosion control. Farmer says it is their chance to say yes or no; Woolever agrees and says the same report was sent to Yuri Nasonovs (in the engineering department) who has reviewed it and made some minor edits to it.

Woolever says as far as the storm water part of the project, the City is okay with it. He says because of the high powered electric line and the gas line, they needed to get approval from the City Plan Commission and Council for placing the parking lot where it is. Woolever says there is also a floodway on the site that cuts through about three-quarters of the wetland. He says that it is pretty easy to get a permit from the DNR to fill 10,000 square feet of wetlands and this one is only 1,300 square feet, so the fact that half or more is in the floodway, that threw it out. Farmer asks if he means that if there was no floodway there, it could've been filled in and Woolever responds that he is correct.

Woolever states that it is a tight site and there are a lot of things to work around. The client wants access off of Chestnut because it would create access to the other remaining parcel to the west as well. Farmer asks for Woolever to point that out and he does so and states that the property line is at the back of the curb. Woolever says this site also had archaeological issues, so they contacted Mississippi Valley who sent

them a letter stating that since the land had been disturbed so much already by the other businesses that this project doesn't matter. He goes on to say that they meet DNR setbacks for this. Farmer asks what the DNR setbacks are and Woolever responds that it varies depending on the quality of the wetlands, since this is a low quality wetland so they can start right at the edge of it. He doesn't have any idea when the original fill went in and Farmer says it was the late 70s in his memory. Woolever reiterates that the Plan Commission, City Council, and City staff have approved of everything else. Seloover asks if it says 24 feet and Woolever responds that it is the length of the drive, typically you have 24 for drive lanes (in the parking lot).

Tim Ebner, 614 28th Street South, is sworn in to speak. Ebner says that this is their property that Pizza Ranch is purchasing. The initial fill below the floodway line was well put in well before they owned it. The existing fill from where the berm is toward Chestnut was put in when construction of the overpass was done and the off-ramps were put in. He says as far as fill is concerned they are in favor of it. They worked extensively with Pizza Ranch to come up with an option so they could still have the other piece of land be viable for a future sale, so that is the reason for the combined driveway.

Gary Lass, 1411 Nakomis Avenue, La Crosse, is sworn in to peak. Lass states that he is a commercial real estate agent and he found them the site because they hired him. It needed to serve La Crosse, Onalaska, and Holmen. They looked for appropriate sites and considered several that were available for lease, like an out-lot at Valley View Mall, but there were no other suitable building sites in the area that they felt that would work for them. He reiterates that there were no other locations for them to go.

Bjorn Kaashagen, W9151 Blue Spruce Lane, Cambridge, Wisconsin is sworn in to speak. He states that he is with Pizza Ranch and he is in favor of the deal. Kaashagen states that the area that they need to be in is in this area. They need to purchase the property to make it economically viable. They are very limited in that area so that is why they ended up before BOZA. He hopes that the Board approves the variance.

Speaking in opposition:

None.

Cherf: The unique property limitation would be that easements need to be respected, in that this may well have been a "created" low-quality wetland, in other words, manmade. The unnecessary hardship would be that the parking lot flow would be restricted and as far as no harm to the public interest, there have been no objections to this. Given those three bullet-points of information, the requested variance would be to allow land disturbing activities within 50 feet of a wetland. And I'll make that motion on 2619 at 3119 State Road 16.

Second: Clemence

The motion carried by the following vote:

Yes: 5 - Clemence, Farmer, Cherf, Haefs, Seloover

Excused: 2 - Nohr, Gentry

Other Business:

- Annual Election of Vice Chair

Motion by Cherf, second by Seloover to nominate Farmer as Vice Chair. All in favor.

Adjournment

Meeting adjourned at 7:27 p.m.

Meeting was adjourned at 7:27 p.m.